

Message Text

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DRAFTED BY L/ARA:GCHESTER:JV

APPROVED BY L/ARA:F.WILLIS

ARA/PAN - R. WYROUGH

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FM SECSTATE WASHDC

TO AMEMBASSY PANAMA PRIORITY

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E.O. 11652: N/A

TAGS: PFOR, PN, PQ

SUBJECT: PROPOSED CONTRACT BETWEEN STRI AND MINISTRY
OF HEALTH

1. DEPARTMENT OFFICERS MET WITH PANAMANIAN CHARGE' AUGUST 6
ON SUBJECT PROPOSED CONTRACT BETWEEN STRI AND GOP MINISTRY
OF HEALTH. DEPARTMENT PROPOSED RESOLUTION OF CALVO CLAUSE
PROBLEM BY MEANS OF AN AGREED INTERPRETATION BETWEEN STRI
AND GOP MINISTRY OF HEALTH ALONG FOLLOWING LINES:

"IN REFERENCE TO THE CONTRACT BETWEEN US SIGNED TODAY,
THE PARTIES UNDERSTAND THAT IN VIEW OF THE STATUS OF THE
SMITHSONIAN INSTITUTION AS AN INSTRUMENTALITY OF THE U.S.,
CLAUSE 6 OF THAT CONTRACT WILL CONSTITUTE A WAIVER OF THE
RIGHT OF THE U.S. TO MAKE DIPLOMATIC REPRESENTATIONS FOR
THE PURPOSE OF CLAIMING SOVEREIGN IMMUNITY FOR STRI IN
CONNECTION WITH THE RIGHTS AND DUTIES ORIGINATING IN THE
CONTRACT, BUT WILL NOT OTHERWISE AFFECT THE RIGHT OF THE
UNITED STATES TO MAKE DIPLOMATIC CLAIMS OR REPRESENTATIONS
WHICH MAY RESULT FROM THIS CONTRACT ON THE BASIS OF INTER-
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NATIONAL LAW.

"IT IS FURTHER UNDERSTOOD THAT NEITHER THE MAKING OF
THIS UNDERSTANDING NOR THE CONCLUSION OF THE CONTRACT HAS

PREJUDICED IN ANY MANNER THE POSITIONS OF EITHER OF OUR
GOVERNMENTS WITH RESPECT TO THE RIGHTS OF STATES TO MAKE
CLAIMS OR REPRESENTATIONS ON THE BASIS OF INTERNATIONAL
LAW."

2. CHARGE' UNDERSTOOD PROBLEM WITH CALVO CLAUSE IN
CONTEXT OF A CONTRACT WITH AN INSTRUMENTALITY OF THE
UNITED STATES. HE SEEMED TO FEEL THE AGREED INTERPRETATION
WOULD BE A VIABLE SOLUTION TO THIS PROBLEM AND INDICATED
HE WOULD RAISE MATTER WITH FOREIGN MINISTRY AS SOON AS
POSSIBLE. HABIB

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